IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Chamber Summons No. 569 of 2005
in
Suit No.3724 of 2003

1. Vasant Gajanan Paranjape
and another ..Plaintiffs

vs.

1. Vasudeo Mahadev Paranjape
and another ...Defendants

Shri M.G.Barve for plaintiffs
Shri S.C.Thatte for defendants

CORAM: A.M.KHANWILKAR J.
20th July, 2005

P.C.

1. Heard counsel for the parties.

2. Perused the pleadings. This application is for amendment of the plaint in terms of the schedule of proposed amendment. After going through the proposed amendment, I am of the view that if such amendment is permitted that will not prejudice the defendant in any manner. Besides such amendment will be relevant for the full, complete and effectual adjudication of all the issues pending between the parties. In the interest of justice, therefore, proposed amendment deserves to be allowed.

3. Counsel for the defendants, however, submits that the present chamber summons has been taken out

by making incorrect statement in the affidavit in support, in particular para 2, that the Notice of Motion was allowed to be withdrawn with liberty to file fresh notice of motion. That question need not be gone into in the present application. Whether it is open to the applicant to take out fresh notice of motion, is an issue which will be decided in the prospective notice of motion to be taken out by the plaintiff. Suffice it to observe that for the purpose of the present application the Court is required to consider whether the proposed amendment will subserve the interest of justice and I have no hesitation in answering that aspect in the affirmative.

4. Counsel for the defendant then contends that in the proposed amendment para 16, the applicants have given the value of the assets of the property of deceased Narayan as Rs.58,53,695.70 only. According to the defendants the value ought to be not less than Rs.1,16,00,000/- Counsel for the applicants/plaintiffs submits that the value mentioned in the proposed amendment is on the basis of the estimated value of the properties at the time when Narayan died on 12th August, 2002. In my opinion, the question whether the suit has been properly valued will have to be considered at the end of trial.

5. In the circumstances, I see no hesitation in allowing the application in terms of prayer clauses (a) and (b). Chamber Summons is made absolute in terms of prayer clauses (a) and (b). No order as to costs. Amendment to be carried out within two weeks from today.

6. At this stage learned counsel for the defendants prays for stay of operation of this order to enable the defendants to take the matter in appeal, if so advised. Accordingly this order not to be given effect to for a period of 3 weeks as prayed for.

(A.M.KHANWILKAR J.)